THE SEA-LAVV

of Scotland

Shortly gathered and plainly dressit for the reddy vse of all Sea-fairingmen.

W-16-44

PSAL. 107. vc. 23.24.31

They that go down to the Sea in schips, and occupie by the great waters.

They see the workes of the Lorde, and his wonders in the deepe,&c.

Let them therefore confesse before the Lord his louing kindnes, and his wonderful workes before the sonnes of men.

AT EDINBVRGH

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An. Dom. 1590.

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TO THE MAIST CHRISTIAN PRINCE IAMES THE SEXT KING OF SCOTLAND.

PLeaſe it your M. in this common expectation and great hoip of all the peiple for a reformatioun of the Iuſtice within this land, I the ſmaleſt of your hienes ſubiects hes taine vpon me the bauldnes TO *preſent your M. this ſmal piece of labour vnworthy indeid. (Suppois it bear the name of Law, quhair of your M. is keiper.) Zit a taikin of my puire affectioun to that great warke, at leſt, of my reioycing for that your Maieſties moſt worthy intention, preſaging a happie and a proſperous reigne.* AND *ſwa to put forth the ſamin vnder your Maieſtes*

patrocinie, as a ſpur to the weil skillit to trauel farder in this neidfull argument, quharin I am verely bot a ſtrainger. PRAY AND *the mighty God to bleſſe your M. with a tymous effectuating of that maiſt lowabil propoſe, quhilke he hes put into your Maieſties hart, to his awin glory & the welfair of your hienes and peiple. At Edinburgh. the 30. of Iunij. 1590.*

Be your M. maiſt humble Subject

M. WILLIAM WELVOD.

THE PROHEME

Bearand the origin of the Sea law, the groūd of this treatie and the occasions theroff.

he daily traffike on the sea constrainit the Rhodians of auld to dytte lawis in the Mediterrane Sea/ and not very lang since the Olonois to set furth thair lawis in the Ocean. Quhilks lawis/ the singular skill of baith peiple sa commendit and equitie sa approuit/ that not only hes the Rhodian law be a speciall ordinance (1) bin imbraced throghout the Romaine dominion/ and sicklike / a great part of the reulis of Olon fellowit in our quarter of the Ocean: bot are also baith receauit in the maist part of the quarter foresaid / at lest/ sa far as they are commonly knawin be peiple. Quhilk knawledge

1. l libellus 8. ad l rhod.

becaus I haife commonly found to be very litle in this cuntry/notwithſtanding that all men be bound to ken the law/(2) namely thair awne common lawe/ (3) notwithſtanding alſo the wo:thines and daily neide thairof/ in this great increſſe of traffick quhilke cuin of auld was ay haulden to tende till a great Common-wealth.(4) Therfoir a 13. yeirs ſince/ out of al the wo:ts authoːizit be our nation I collectit bːiefly. not onely the remains of the Rhodian lawe/ as it is left interpːet to vs be the Romaine lawers/ with the reulis of Olon receauit be our cuntrey men / bot alſo the acts of parliament/with vthers reſts of the Romain law concernand the Seafairing. And hes now/I trow/in a conuenient tyme at the earneſt deſire of ſundːie oːderlie digeſt/ & publiſhit the ſamin/ fo:r the reddier vſage to all Seafairing men/ luking verely fo:r gud occaſion at thair hands of farther trauell in this turne afterward / as God the great lawgiuer ſall beſtowe mair light on me / quha mot bleſſe this pːeſent labour to my Cuntrey men/ Amen.

2 l leges C de legib.
3 bart in l non fatetur nu: 6 & 12. de confeſ. gloſs. in l liberorum verb. non juris de his qui not.infam.
4 l 1 ‡ licet vers quia ad ſummam de excercit.

THE SEA-LAVV OF *SCOTLAND.*

TIT. I.

The ſumme and ordour of this Treatie.

AS the turnes of the Sea concerns onlie ſeafayring men/ and mellairis with thame: evinſa al doubtes differences/ and actions/ ryſing vpoun the ſamyn/ & thair chances mann alſo concerne the ſamyn perſouns quhilks ar ather chiefly Awners/Outredders/ Maiſters / Pilots/Marriners/ Merchands/ Paſſingers. Of quhome the awner is he to quhome the Schip / or any parte thairof belangis at the leſt in propietie. And the outredder he to quhom ather as dealisman for a veiage / or a certaine time during the ſetting of the Schip/the proffitis & commoditeis thairof chiefly redounds (1) as the maiſter he to quhome the cure

(1) l. 1. in pr. de exerc.

2 d 1. ‡ 1. of the hail Schip is committed. (2) The reſt are knawin. Quhilks perſonages quhilis happis for a great part in ane: as an man to be awner/outredder/ maiſter/ and ſteirſman: And another to be baith Merchant & Mariner in paſſing a field/ and in returning perchance bot a paſſinger: Quhilis againe for common/all and ilke ane of thir perſons to bee diuers and of ilk ſort ma/as ma awners/ma outredders/ &c. And thairfoir the actions alſo not to be indifferently common/ aither/ for or againſt ilk ane of thir perſons/ but onely according to the perſonage ſuſteined. And ſick like ȳ deciding of the ſamin actions and debates/ not to pertein to ilk Judge & place / but quhylis to the great Judge of the Sea onely/ quha is Admirall/ and quhylis to the Deanes of Gild alſo/not without ſoume entres in ſoume thinges to vther iudges and perſons according to the prouiſion of lawe/ and vſe of the land. Of quhilks thinges ſummarly / bot orderly this abridgement ſall make ſhawe. Beginning at the fraughting of ſchips/ as a thing concerniug the chiefe vſe & end of ſchipping/ ſyn the perſon

lens thair duties powers & priuiledges. Thirdly/ the manifolde chaunces/ with the maner of iudgement thairin. And last of the iudges ordinair to all Seafair debaits and causes.

TIT. 2.

Of fraughting of Schips.

NA Schip suld be fraughtit without ane charterparty / beirand that the maister sall prouide an sufficient steirseman/timberman/and schipmen conuenient for the schip/ with fyre water and salt on his awin cost / and gif any debate sall happen betwirt the master and merchant thay sall vnderly the iurisdictioun of the brough quhairvnto the ship is fraughtit/ without any exemption & that na drinke siluer bee tane fra the merchandis vnder the paine of the tinsell of the fraught and ane tunnes fraught to the kirk warke of the town to the quhilk thay are fraughted. (1) Gif a schip be nocht reddy at the day appointed in the charterparty to go to the Sea / the merchant may not onlie quyte himselfe of her/ (2) except hee had his

1 c. 17 et 130 actor Iacob 3

2 per L. item 23 ‡ Si lege. loc

his peace and discharge hir not at the day/for then he appearis againe be silence to consent againe of new. (3) Bot also obtein all costs/ skaiths and interest/ (4) except the master schaw sum excuse of a notorious necessitie/ or of a chaunce quhilk could nocht ben eschewed / and than he lossis only his fraught/ becaus he hes not seruit thairfoir. (5) Bot gif the fault be in the merchant / he sall pay the skipper and schips skaith/ (6) & in case the merchant hald not out his voyage/ he sal pay the haile fraught: (7) For it was aneuch that the maister was reddy at the day appointit. (8) Meckle mair/ gif an schip being fraughtit and loaden/ and the merchaunt take out his geare againe / the maister may seike his fraught / as gif he had seruit thairfoir. (9) Giffe in the voyage the schip without the maisters fault/ becums through stormes vnable / or that the maister & schip be arreistit be ane magistrate in the waye/ the maister may aither fraught ane vther schip / or bett his awne: Or in case the merchaunt will not agree thairto/ the master sall haif fraught so far as he hes seruit: (10) for vtherwais gif

3 d. item ‡ fin

4 c 16 olon

5. per l ex conducto in pr, l Si item fundus l. et hæc distinctio et l. si in lege, ‡ colonus, locat.

6. d. l. ex conducto ‡ item quum quidam.

7 l. pen ‡ tamen loc. facit d. l. si in lege l. si domus et l. domus horreor ‡ fin eod

8 per l. sed addes ‡ fin. eod

9 l vlt ‡ fin loc facit d l. sed addes ‡ quum quidam.

10 c 4. et 18 olon l vlt ‡ 1 ad l. rhod.

gif without neceſſitie or conſent of the merchant/the ſchipper puttis the guidis in ane worſe ſchip / & ſchip and guds periſh the maſter ſal be haldin for al/except that baith the ſchips periſh that voyage/& that na guile nor fault be found with the maiſter. (11) Now it is recomptit for a fault in this caſe/ gif the ſchip be put out to the Sea/ aither without a ſkilfull Pilot/ or in a incommodious time/or that the ſchip be vnworthy hir ſelfe/ in quhilk the geare is put in/(12)as vntight/or without ſufficient geare. Gif a ſchipper without leiue of his merchant take in mair/ nor he ſet his ſchippe forth for/ he ſall looſe the fraught thairof.(13) Ane ſchip portand at ane vther port/nor ſhe was fraughtit tuo and againſt the maiſters will/ (quhilk he ſall with twa marriners declair vpoun thair aithis) the guds ſall be fuirit to the port/ conditionit on the ſchippers coſt.(14) Gif any man compel any ſchipper to ouerburden his ſchip or boat/he ſall pay the ſkaith and be accuſit criminally. (15) Gif any ſchipper/awner/or outredder/fraught/ or take to ſail with them any merchaund that is not frie in ſoum brough/ and indu-

11 d l vlt ‡ 1 ad l. rhod

12 d l item ‡ 1 et 2.

13 c 13. olon.

14 c 28 eod.

15 l vnic. C ne-quid oneri pub lib 11. vbi barto

uellar thairin: and is not full of substance and vther qualities prescryuit in the 17. and 127. act of James the thrid. Sicklike/ gif they haue naty name of the merchant and passinger in ticket subscryuit be the Prouest or Baillies of the brough for his warrant/ he sal pay twenty pound for ilk persoun vtherwaies receaued/ that is to say/ ten to the King/ and ten to the Prouest and Baillies. (16)

16 c. 27 act. iac. 5

TIT. 3.

Of the Maister of the Schip, his power and duetie anent the Schip.

The Maister/ that is he quham to the hail cuir of the ship is committit (1) hes his power prescryuit/ partly bee the outredder/ partly be the cõmon lawis of the Sea / as to set her out in fraught to take in passingers/ To bett and furnishe the ship/ (2) and for neede of money in a strange port/ aither to lay sum of the taikill in wodd/ bot with the aduise of the kippadge/ (3) or to sell sum of the Merchants gear quhilk salbe paid for as the rest sall be sauld. Bot neither the deareſt/ nor

1 L. 1 ‡ 1 de excer

2 d‡ 1 in fin.

3 c. 1 Olon

nor the best cheape that the rest gifs in the
market/ and sal notwithstanding receaue
his fraught thairfoir/ (4) vnlesse the ship 4 c 21 & 22
perish thereafter. In quhilk case only the eod
price the geare cost sall bee renderit/ (5) 5 c 41 eod
and howbeit in the case of neid/ it be per-
mittit to the maister to make money this
way/ yet may he na vtherwaies sell anie
thing: yea not in the chance of schipwrack
(6) The duetie of the master is/ befoir he 6 c 3 eod
lowse his schip out of the harbery/ to haif
the consent of the maist part of the Ship-
padge (7). Generally/ the master quha is 7 c 2 eod
not sa expert as soum of the cõpany/ may
do nathing without thair counsell/ or els
he sall be hauldin for quhat euer skaith cõ
ming thirby. (8) Bot gif ỹ schip lyes on a 8 c 13 eod
hard dok/ or swing ouer in a dry harbery/
he sall pay the skaith. (9) Euen sa/ gif he 9 12 eod
be no ane expert Pilot himselfe/ and yet
without ane skilled Pilot lowse forth the
ship/ he sall be haldin for all that perishit
with hir (10) 10 L item magi-
ster loc

TIT. 4.

Of the duetie of the Maſter to the Marchant and Paſſinger.

THE Maiſter aucht of right and equitie to rander againe quhat euer he reccauis within his ſchip/to him quha deliuered the ſamin/(1) aſwell victuall and clothing/as any vther thing.(2) Quhair it is to be vnderſtood/that gear is thocht then to be deliuered in ane ſchip/ather gif it be put within the ſamin/ſuppoſe without any expreſſe deſignation for the cuſtody: or gif it be laid to the ſchip ſide/with warning for ỹ keping thairof.(3) Baith quhilk waies the parrell perteins to the M. (4) quhilke is alſo to be extendit to the boat men and ferriours.(5) Sicklike/ the maiſter is halden to the marchant for all dammage ſuſteinit/ aither throgh euil heiſing/blocks/heckis/or lingis/ namely/ gif the Mariner forſchaw the ſaid geare to bee fautie/ otherways the mariner ſall alſo in cõmon/ helpe the maiſter to pay ỹ ſkaith.(6) Farther gif any ſkaith happin to the marchant be vnreſonable ſtowing of his guds / or gif his guds be ſtrucken

1 t.t.mant.caup

2 l 4 ‡ 1 eod

3 l 1 ‡ fin eod

4 l 3 in pr eod

5 d. l 1 ‡ 3

6 25 Olon

vp

vp/ the maister sal not onely refound the
shaith/ (7) bot also tyne his fraught/ (8) 7 c 7 eod
and pay twenty pound to the King/ (9) 8 c 17 act iac 3
and for want of pruife in this case / the 9 c 130 eod.
shipper sall be compelled to giue his aith.
(10) Finally/ the maister is not only hal- 10 d c 7 Olon
den for his awne deid/ his seruants and
kippage deid/ bot also for the deid of the
passinger/ (11) in sick sort/ that quhatsoe- 11 l 1 ‡ fin.
uer want or losse cums be aither negli-
gence fault or chance quhilk might haue
bin eschewed/ as be stouth or fyre (12) 12 l Si vendi-
Howbeit that na fraught suld haue bene ta de per rei
paid ather for geare or passage. (13) Bot vend l cum du-
specially the dammage done be ane mar- ob ‡ damna.
riner/ sall be set vp be the maister to the pro socio
double/ (14) quhilk the master notwith- 13 l 5 et 6 naut:
standing may repett fra the marriner a- caup.
gain: (15) Bot it is not sa gif the shaith be 14 d l 6 et 7 eod
done be ane mariner to ane vther/ except
the marriner be ane marchant: or be ane 15 d l 7.
passinger or marchant to marchant or to
passinger: that is to say/ the double of the
shaith sall not be soght fra the maister/
(16) and in some case nathing/ as gif the 16 l 6 7 et l
deid be done without the schip/ or gif the vni. furt adver.
maister forewarne euery man to kepe his naut caup.
awn

17 d 17 in pr

awn and thay agree thairto: (17) nether are thir lawis to be esteemit heauy and hard againſt the maiſter / becauſe he is bound to put in ſufficient men / and ſuld na wais vſe ȳ ſeruice of ill men. (18) Syne it is in his awne will quhome to receaue or refuſe/and he ſuld knaw the man with quhom he hes ado. (19) Schortly except it wer ſa prouidit/ great occaſion ſuld be giuin of thift. (20) Laſt / gif thrugh the fault of the maiſter not payand the dew toll or not giffand vp the iuſt compts to the cuſtomer confiſcation happnis or vther kind of hurt to the marchant/ the maiſter ſall refound the ſame. (21)

18 ‡ fin inſt de ob quæ ex delic.

19 l qui cum alio. de reg iur.

20 d 11 in pr. naut. caup.

21 Gloſ. in l iubemus C. de nauib. non excuſ. lib. 11. & bald in 1 quum proponis. de naut. fœnor

TIT. 5.

Of the Maiſters duetie to the Mariners.

SEeing the maſter is the ordinair ruler to his kippage/ he aught thairfoir be an ſpecial authority to hald yam in peace ſa lang as they eat his breid / (1) & gif any mariner be hurt in any ſeruice of the ſhip commandit therto be the maiſter (2) or gif he be vnable to flee out of the ſchip/ happnis to be hurt thrugh the fault of ane

1 c 8 olon,

2 c 6 eod,

an vther mariner quhilk might haif bene eschewit/ ȳ master sal heale him/ (3) as he quha is haldin to answere for ȳ deid of al within his schip/ (4) namly his mariners. Bot in this last caise may rather bee his awne authority garre the vther mariner heale him / or els repete the samin coast fra him. (5) Bot ther is a farder consideratioun zit giff the fault proceede of euident wilfulnes. Euin sa/ giff a mariner in his seruice becū seike/ the master sal cause lay him in ane house/ with all sustentation/ sicke as they vse in the schip/ bot the schip aught not to tarry vpon him/ quha giff he recouer health/ sall inioy his hire/ vtherwaies his wife or the neerest of his kinne. (6) Bot giff ane mariner be hurt without the schip/ as in striff/ and not in the ships seruice/ the master is not halden to prouide for him/ bot to hyre another in his rowme/ quha giff he coasts mair/ the vther sal pay ȳ superplus/ giff he haike dequoy. (7) Last/ ȳ maister is haldin to lenn and borrowe to his mariners giff they want. (8)

3 per l 2 ‡ 2 de excer et l fin. naut caup.
4 l 2 ‡ fin cod
5 arg. l 7 eod
6 d c 6. facit l. vlt ‡ fin ad l. rhod.
7 c 24 Olon.
8 c 3 eod

TIT. 6

Of Marriners, thair duetie and priuiledges.

A Marriner aught all dew obedience to the maister/ euin in suffering/ bot in ane straike onelye / for against ma straikes/ he may defend himselfe (1) for
3 c 9 alon. otherwaies in caise of rebellioun/ he may be commandit furth of ȳ schip at the first land/ (2) except he offer ane mendis for
2 c 35 eod. his fault / submitting himself to ȳ iudgement of his fellowes/ in quhilk caise/ gif the maister refuse him/ he may follow the schip/ and notwithstanding obteine his
3 c 10 eod. hyre as he had seruit. (3) The marriners aught to supplie vthane another on the Sea/ for he that failes sall tyne his hyre/ and the aith of the mariners sall staike for
4 c 8 eod. probation (4) The mariners in a strange port may not leaue the schip/ except they haise the masters licence/ or that they haif left hir fastnit with four tows/ otherwais they man set vp all skaith happning thairby/ (5) sicklike man they wait on at hir
5 c 5 eod. hamecumming/ quhile scho be lost q ballast. (6) Gif the schip breake in any place
6 c 25 eod. and the marriners saise not the guds/ sa far

far as they may/ they tyne their hyre: (7) giff it hapin otherwais nor weill to ȳ maſter/ ȳ mariners ſuld bring hame the ſchip again without delay/ to the port quhairfra ſho was frauchtit. (8) A mariner may cary as meckle meat out of the ſchip as he may eat at anis / but na drinke. (9) The mariners may aither kiepe thair portage in thair awn hand/ or ſett it for ſic fraucht as ȳ ſchip gets/ nather is it to be required quhat ſtuffe be in thair portage bot quhat bowk/ nather is the ſchip halden to byde quhil they prepare thir portage. (10) Gif the ſchip gangs farther nor the mariner wes hyred/ the mariners hyre ſal be acordingly augmentit. (11) A mariner rūnin away with his hyre vniſeruit / deſerues the gallows. (12) Ane mariner hyred bot for ane marriner giff quickly efterward he may be hyrit for a ſkipper to another ſchip/ he may leaue the firſt ſchip/ giff he rander the hyre again quhilk he receauit: (13) euin ſa is it giff he mary. (14) Laſt/ na ſeaman quhat euer/ fuiring the kings gud or imployit in the affairs of the king or country may be arreiſtit or haldin vp in any port vnder quhatſumeuer perſoit

7 c 3 cod.

8 c 17. cod.

9 c 15 cod.

10 c 16 cod.

11 q c 16

12 c 35 cod.

13 c 36 cod.

14 c 37. cod.

ciuill

15 l 2 C de nauic, respub, portant lib 12

ciuill or criminall of any time past. (15)

TIT. 7

Of a Pilote or Steirseman.

1 c 19 cod.

GIff a maister hyre ane steirseman a-gaine a certaine day, and he faile at that day/ he sall not onely pay the master and merchaunts skaith/ (1) bot also the haill fraught tint throw the slipping of ỹ appointed day/ except seicknes or soum verye lawfull impediment had hindered him. (2) The steirseman fra time he haiff brought the schip in the harbery/ is na farder bound/ for than the maister man see to her seage and lying/ and beare the rest of all burding. (3)

2 arg l vlt, ‡ b ad l rhod,

3 c 17 olon

TIT. 8

Of the Outredder of ane schip, and actioun baith for him and againſt him.

IT is nocht onelye permittit to him quha contracts any waies with the maister of ane schip/ to persew the master/ bot also ỹ outredder quha pat in the mai-

ster

ster/ (1) as quha thairfoir aught to make guid the deid of the maister/ (2) quhome wee take to bee that persoun/ to quhome the commodities of the schip chiefly redoundis/ (3) and quhither hee bee the master or outredder/ the Contractour may take him to any of thame. (4) *Ne in plures aduersarios distringatur, qui cum vno tantum contraxerit.* (5) And the rest of the outredders sall releue ỹ man quha is put at accoʒding to thair iust part / (6) except that the handling of the schip be deuydit among the awners seuerally / or that the maister haue not his power of thame all/ (7) or that he haue obleist him selfe beyond the boundis of his power or commission/ as giff hee haue tane on money to bett her (ꝛ hes na commissioun (8) noʒ ʒit the schip need at least of sa meickle money/ or that vtherwaies/ the boʒrowing of the money bene plainely vnlikely/ (9) in quhilke case he that contracts with that maister/ let him wyte his awne folly (10) For ilk man aught to knaw the persoun with quhome he hes to do. (11) Vtherwaies/ giff hee quha lent the money can prieue that the schip wes in that estate that

1 l 1 in pr. de excer-
2 d l 1 ‡ 3
3 d l in pr
4 d l 1 ‡ si plures ‡ vlt et l 3 eod.
5 l 2 eod,
6 d l. 3
7 l. si tamen 4 in pr eod.
8 d l 1 ‡ non autem.
9 arg. d. l vlt in pr eod.
10 d l 1 ‡. si plures ver, imputabit
11 l, qui cum alio de reg. iur.

that ſcho neidéd aither gear or betting/ & that the ſoume agrees thairto / than the outredder man ſatiſfie his creditor howbeit the money war waiſtit. (12) And in that caiſe let the outredder wyte him ſelf becauſe he pat in ſick a maiſter. (13) Bot giff ane merchant contract with a mariner that is nocht ane maiſter/ he ſall haue na actioun againſt the outredder/ except only for the fault done be thame quha ar put in to ſaile the ſchippe/ aither againſt ane mans body or his guds: for thair is difference betwirt the cauſe of ane contract & the cauſe of failing or offēding/ ſyn the maiſter is put in to contract as the outredder him ſelfe / bot the Marriner as ane inſtrument to ſaile the Schippe/ (14) And quhawbeit on the contrary the outredder be the common law/ micht nocht haue intentit action againſ thame quha are obleiſt to the maiſter/ except the maiſter had bin *Non ſoluendo:* Zit in this point as otherwaics extraordinarly thay ar ouerſene to perſew vpon the contract made be the maſter as they had bene contracters principal/ (15) quhilk priueledge is grauntit becauſe the trafficke of ſchips

12, l, vlt, de exer, act.

13 d l 1 ± 2 vers ſibi imputatu rum et ± 5 verb imputaturum ſibi.

14 vide d l ±. 8 de excer act. et l fin uaut caup.

15 d l 1 ± eſt autem. 8 et ± 12

tendis

tendis to ane gret common wealth: (16) and suppose the maister be haldin to make a compt to the outredder of all fraughts / zit giff ane passinger be nocht able to pay his passage/ it sall not be imput to the maser/ because the master suld not search out ilk mans puissance (17)

16 d l 2 ‡ 20

17 l 2 ‡ 6 ad l. rhod

TIT. 9

Of contributioun for gudis cassin.

FIrst concerning this mater/ giff throw stozm the schip be in otter danger that gudis man be cassin fo; the releise of the schip gudis and lyffs: the maister sall consult with his mariners / quha giffe thay consent not/ zit may he cast notwithstanding/ giff quhen efterwart he sall coum saife to land / he with thame of his company make a solemne aith/ that fo; na vther cause he cuist the guds/ bot fo; saifty of the schip guds and lyffs. (1) Secondly/ the gudis cassin sall be set vp be common contribution of schip and all the rest of guds quhilke are saife thairby : (2) nocht oncly the gudis payand fraught

1 c 19 & 20 olon.

2 l 1 l 2 ‡ 3 ad l rhod

and burdingſoume to the ſchippe bot of thame alſo quhilk are nocht ſa, as of clothing/ money/ iewels/ golde/ pꝛecious ſtaines/ and ſicklike : (3) foꝛ it is maiſt richteous/ that the loſſe ſuld be common to all thame quhas guds are ſaif thairby/ (4) except the thingis bozne on ane mans awn body/ (5) and except the victuals of merchands marriners and paſſingers/ and ſicke thingis as are put in to be conſumit. (6) Foꝛ ſic thingis ſuide nocht ſkat/ foꝛ thay ar cõmon gear in ſa far/ that quhẽ they becom ſkant ilk mã is bound to communicate euin the victuals quhilks were keepit a part : (7) naithere zit ſuld all kinde of guds caſſin/ be ſet vp be common contributioun/ foꝛ the guds fuirit aboue the ouerloft/ giff thay be caſſinn/ nane beneith the ouerloft ſall ſkatt and lott foꝛ thame/ (8) foꝛ naither ſuld ſic guds ſa fuirit pay anye ſkatt be our lawe. (9) Zea giff ſicke guds ſa fuirit be the wyte of any ſkaith / and thay be tain in with the maſters will/ he ſal alane pay all the ſkaith and be perſewit criminally/ (10) Sicklike the ſchippes gear wzackit/ ſuppois be ſtozme/ impoztis na

3 d l 2 ‡ cum in eadem et d c 19 olon.

4 d l 2 in pri

5 d c 20 olon.

6 d ‡ 3

7 d ‡ cum in ead.

8 c 17 et 130. act. jac 3

9 d c 130.

10 arg. l vnic C ne quid oneri pub. lib. 11.

mair contributioun / (11) nor giff ane warkeman breake his warkloums in his warke / except things be done for eschewing ane common parrell / as the hewing of ane Mast / ouer buird / (12) and Anker and tow slippin vpoun a iust fear / or at the desyre and wil of the Merchands / (13) quhilke alwaies suld be prowin as before be the solempe aithes of thame of the schippe / for in all deids aither within Schip or house / credite man be giuin to the domesticks. (14)

11 d l 2 ‡ esl nauis 6 eod.

12 l amissæ ‡. eod d c 20 olon.

13 d l 2 ‡ 2 in fin vbi bart.

14 l consensu ‡ super plagis. C. de tepud. l. quoties C. de naufr. vbi bart. c veniens ex de testib. & c 2 de prob.

TIT. 10.

Of contribution for Pirats.

SIclikke / giff Schip and guds be redeimit from ane Pirat / contribution sall be maid be all / becaus it is done for the saifty of all. (1) Bot contrariwaies giff the Pirat beand ains maister of the Schip and guds / takis bot soume special gear quhidder schips gear or marchants waire / and nocht vnder the name of redemption: na thatt sall be maid thairfoir:

1 l 2 ‡ si nauis 4 ad l rhod.

2 d ‡ fi nauis vers. quod vero prædones.

(2) Becauſe it can not be ſayd that the ſchippe and reſt of gudis are ſaiſt thairby/ nor zit that that quhilk is tane is loſſit by any common neceſſity/ for oftentimes pirats takis nathing.

TIT. 11.

Of contributioun for ſpilt gear.

GIff it happins throw the lowſing of the gear caſſin/ or be any ſick neidfull occaſioun/ that any vther gear in the ſchip be ſpilt with water or otherwaies. In that caiſe contributioun ſall be made thairfoir/ euin as for the gudis caſſin/ becauſe the awner of the ſpilt gear is hurt as well as he quhais gudis are caſſin/ for it is alyke to looſe ten crownes/ and gear to be made ten crownes worſe: Zea ſuppois the ſkaith be not meane/ zit conſideratioun ſuld be had thairof in ſetting the ſkatt for the guds caſſin / that ane kinde of gear ſuffer nocht twa ſkaithes . And thairfoir giffe for example / it fell to any certain gear / to pay ten pound ſkatt and in the meane time it were fourty ſchillings worſe/ throughe the lowſing of the gear

gear cassin/the fourty schillings suld be deducit/ (1) bot giff the skaith cum vther-waies/ thair is na sic regarde to be had thairof. (2)

1 t l nauis 4 ‡ 2 ad l rhod 2 arg. d ‡ 2

TIT. 13

Of contributioun for the lichtning of ane schip pilotsie and vther chances.

And euin sa for the lightning of ane schip/ skatt man be bot in this maner/ the twa part vpoun the gudis/ and the thrid vpon the schip gif scho be full/ except that nochtwithstanding any lightning/ the schip is na waies able to enter into the port/ in quhilke caise oncly the schip sall pay for the lightning: (1) Or except that it be agreed in the Charter-party to deliuer the gudis freelye at the port quhairin lichtning is requirit/ for thair condicioun makis law. (2) as said is/ quhair it is to be obserued/ that giff in the lichtning of an schip/ the gear that is lowsit and put in an lighter perish by the way/ the schip and rest of gudds sal skatt to the vplet thairof/ as though cassin had

1 c 13 olon

2 1 1 ‡ quod conuenit depos

ben becauſe thio is alſo done for ſaifty of Schip and guds. Bot on the contrarie/ giff it happin the Schip and reſt of guds to periſch/ & the lichter & gear put thair-in onely to be ſaif/ na contributioun ſall be ſet vpon the gear in the boat/ bot it ſal freely appertene to the awners thairof/ becauſe it is a conſtant rule in thir caiſes of caſting and lichtning that that ſuld onely be maid quhen ſchip and guds for quhais ſaifty caſtin and lichtning wes maid come ſaife to the port. (3) Item contributioun aucht to be common ouer Schip and guds for Pilotage in ane vnknawin port. (4) & contributioun man be maid for the releiffing of the Schippe af greund/ ſa that na faut be found with the maiſter in that chance. (5) This alſo is to be markit/ that giff of ane ſort of gear/ as Salt/ Corne/ &c. laid into ane ſchip in heap be many partners without ſeperatioun/ the maiſter deliuer to ane of thame his meaſure/ and befoir the reſt can receaue thair parts/ it chaunces the reſt of that geare to periſch. Surely that meaſure or part quhilke is deliuerit ſall remaine with him quha had the guid chance

3 l nauis 4 in pr. & l. amiſſa ad l rhod.

4 c 31. olon

5 c 30 olon

to

to receaue the samin / and the partners may naither doe againſt the Maiſter/ nor him quha receauis it/ for any part thairof/ (6) becauſe quhen this kind of gear wes firſt inlayd to the Schip/ it was deliuert to the maiſter/ *tanquam in creditum* and thairby become his awine as lent money/ quhilke men are not haldin commonlye to rander againe the samin ſelfe pieces / bot at the leiſt in the samin ſelfe cuingzie/ (7) except thair be ane vther ſpeciall condicioun quhilke in all things makis lawe. (8) Sa that as he behuffit ſa micht he giue firſt any part thairof to any of the merchands accoꝛding to thair poꝛtioun. (9) Attour in contracts concerning baith the parties alyke/ Men are commonly haldin bot quhair thay fail/ *et non in caſus fortuitos*. And in this caiſe it can not be callit a fault / that any ane receaue it firſt/ foꝛ of neceſſity it behuffit ſa to be/ howbeit it chancit better foꝛ him noꝛ foꝛ the reſt. (10)

6 l 1 in nauem 31 loc.

7 Inſtit in pt. quib.mod re contr.ob & l 3 ſi cert.petat 8 d. ‡ quod conuenit

9 Vide paſſim d l in nauem.

10 In fin. d l in nauem.

TIT.

TIT. 13.

The common maner of Contributioun and doing thairfoir.

IN contributioun and ſetting of ſkatts thingis man be eſtеimat ſa/vz. the guds callin accoꝛding to the pꝛyce they coſt/ and the guds quilke are ſaike accoꝛding to the pꝛyce they may be woꝛth at the Market/ quhairon to they coume. The reaſon is/ becauſe that regard ſuld be had in thair chances to ſkaith and damnage/ and not to any aduantage and pꝛofite/ oꝛ becauſe thair is heir ane vpſetting of loſſe/ and nocht of gaine. (1) Bot in the ſkatt foꝛ ſpilt gear/ the eſtimatioun ſuld be maid accoꝛding to the common woꝛth. (2) And ſa in all vther contributiouns quhair it is to be markit/ that the pꝛeſent woꝛth of geare is not to be eſteimate accoꝛding to ỹ affection of the owner/ noꝛ the particular pꝛyce payit be him/ bot be the cõmon woꝛth thairof/ at the time & place quhair ſicke guds were coſt. (3) Nowe the way to do foꝛ contributioun and ſkatt is this the awner of the gear quhilk is loſſit/ oꝛ he quha man be recompanſit be a ſkatt man

1. l 2 ꝛ 4 vers portio ad l rhod

2 l nauis 4 ꝛ quum autem eo.

3 c l pre-ia vbi bart. ad ꝛ non nullum ad l falcid. idem ad l ſeptem C de erog. milit anno lib. 12

man do againſt the maiſter to reteine all the guds on his ſchippes boddome/ or at leſt in his cuſtody vntill ane ſkat be maid/ ſyn the maiſter as he may be law/ſa aucht he to compell ilk man to contribute acor-ding to the ſkatt ſet downe: (4) for vther-wais the awner of the loſt guds may per-ſew the maiſter for the ſamin (5) *ex conduc-cto*. But all this doing ceiſſis giff the caſ-ſin geare be found againe / and na wor-ſe nor it wes befoir it wes caſſin. (6)

4 l 2 in pr adl rhod

5 d l 2 ♯ 3 ver. ex conducto

6 d l 2 ♯ pen

TIT. 14.

Of Schipwracke.

STrangers incurring Schipwracke in Scotland/ ſuld haif the ſamin fauour & grace of vs/ that our people in like caiſe vſe to receaue on thair coaſt: (1) tharfoir na confiſcation ſuld be maid/ (2) except that aither the like lawe be practiſed be thair nation againſt ours: (3) Or except thay be Pirats or be enemies to the chri-ſtian name/ (4) vtherwaies quha ſteils or receauis ony of that miſerable gud per-teining to any to quhome we aucht fauor giff he be purſuit within zeir and Day he ſal paye fourfald to the perſewer/ and as meikle

1 e 138 act jaco 1

2 l 1 C de naufr. ib 11

3 d c 138.

4 auth. naufragia C. de furt.

meickle to the theſaurie (5) and quhilke is mair/ ſuppois that only ane nail or the worth thairof be ſtolne or reft/ the theif or reuar ſall be haldin for the hail gud/ (6) Bot the Emperor Antonius eikit maire to this paine according to the eſtate of the reuar/ vz. giff the reuar were of any haneſt ranke to be batonit and banneiſt for three zeires: bot giff he were of any baſe condition/ to ſend him ſkurgit to ſoume publick warke and perpetuall labour/ as to metfall mines and galiouns. (7) and giff any man ſuld be ſa vnhappy as be counſell or deid to hinder ſchippe brokken men from helpe in thair danger/ to reput and hald him for a murtherer. (8) And for the better eſchewing of thir euils/ hadrian the Emperor ordain all tham quha had poſſeſſions at ỹ coſts ſides/ to intend carefully thairvpon/ with certificatioun that vtherwaies thay ſuld be anſwerable for all things quhilke be ſtouth or reiff in ſic miſerable caiſe wer amiſſing. (9) Laſt anent that action and caus of ſchipwrack aboue written/ it aucht aither to be intentit within zeir and day or els neuer to be hard: (10) and ſicklyke/ it aucht to be expedd

5 l 1 in pr. de lucend rui nauf. l in eum cum auth ſeq. C de furt

6 l 3 in pr & in fin de incen. rui nauſt

7 l pedius 4 eod

8 d l 3 in fin.

9 l nequid eod

10 l ſiquis C de nauſt lib. 11

pedd and decidit be the Judge within twa zeirs. (11) 11 l de submersis eod.

TIT. 15.

Of the Iudge ordinair to Seafair causes.

LYk as al actions amang mē ar chiefly ather ciuil or criminal/ euin sa ar the seafayr causis. as for ȳ ciuill debaits/ namly sic as fallis out betwirt merchand and skipper/ it wes ordain of awld that they suld be without exemptiō/ decydit be the iudge of the brough quhairvnto the schip is frauchtit/ (1) quha is according to the common custome/ the Deane of Gyld/ a iudge of many hundred zeirs awld in this lande. As for the criminalls/ of bluid slouth/ raiff/ &c. done within the sea-flud/ The admiral senn his erection amang vs is iudge propir and ordinair thairto/ as also be ȳ custome of vther nations quham we follow in that erectioun/ iudge to the ciuill causis/ bot without preiudice of the lawis and consuetud foresaid. The place ordinair for this iurisdiction is not as zit constitute/ quhilk wald be at the lest ane certain in ilk seaward shire/ quhilk thing I hope my lord Admiral will consider in the reformation of this iurisdictioun. 1 c 17 c 130 actor Iac. 3